

REMARKS

I. Overview

These remarks are set forth in response to the Non-Final Office Action mailed January 19, 2007. As this amendment has been timely filed within the three-month statutory period, neither an extension of time nor a fee is required. Presently, claims 1 through 24 are pending in the Patent Application. Claims 1, 9 and 17 are independent in nature. In the Non-Final Office Action, each of claims 1-24 have been rejected under 35 U.S.C. § 101. Additionally, claims 1 through 24 have been rejected under 35 U.S.C. § 112, second paragraph. Yet further claims 1, 9 and 17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,016,501 to Martin et al. (Martin) in view of U.S. Patent No. 6,985,905 to Prompt et al. (Prompt).

Claims 2, 3, 10, 11, 18 and 19 additionally have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of U.S. Patent 6,978,115 to Whitehurst et al. (Whitehurst). Even yet further, claims 6, 8, 14, 15, 22 and 23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of Whitehurst and further in view of U.S. Patent No. 5,819,291 to Haimowitz et al. (Haimowitz). Finally, claims 7, 16 and 24 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of Whitehurst and also Haimowitz, and further in view of U.S. Patent No. 6,058,239 to Doyle.

Importantly, the Examiner has not rejected claims 5, 13, 20 and 21 under 35 U.S.C. § 103(a).

II. The Applicant's Invention

The Applicant has invented a method, apparatus and tool for translating user and course-related data in a learning management system (LMS) to a format consistent with the LMS target database. The invention provides flexible handling of data sources by extracting source data, such as user and course data in an e-learning model, and transforms the data into a form that is compatible with an LMS. The invention provides flexible data targets by transforming the data into a form that not only preserves all relevant information from the source for loading into the target LMS but also produces industry standard files including metadata that can be used to modify the course or produce a new course by using a course authoring tool. Course structure and progress data can be transferred to the new LMS by re-loading the content on the LMS and linking that content with the previous course and progress data. The present invention also generates new unique identifiers, and utilizes the capabilities of the user migration to link progress data, instructor information, and progress with previous identifiers.

III. Amended Claims

Applicants have cancelled claims 2, 3, 10, 11, 18 and 19 and incorporated the limitations thereof into claims 1, 9 and 17, respectively. Additionally, Applicants have amended claims 4, 5, 7, 12, 13, 15, 20, 21 and 23 to maintain proper dependency in light of the cancelled claims. Of note, the amendments to claims 1, 9 and 17 highlight the translation of user and course information from a source database in an e-learning model to a target database in a learning management system. The amendments to the claims are expressly supported by paragraphs [0009] and [0010] of the Applicants' specification. Accordingly, no new matter has been added.

IV. Rejection Under 35 U.S.C. § 101

On page 2 of the Office Action, the Examiner asserted that the claimed invention, as recited in claims 1 through 24, are directed to non-statutory subject matter. This rejection is respectfully traversed. In *State Street Bank and Trust Company v. Signature Financial Group, Inc.*, 149 F.3d 1368, 47 USPQ2d 1596 (Fed Cir. 1998), the court set forth the criteria for establishing statutory subject matter under 35 U.S.C. § 101 as follows:

The question of whether a claim encompasses statutory subject matter should not focus on which of the four categories of subject matter a claim is directed to —process, machine, manufacture, or composition of matter—but rather on the essential characteristics of the subject matter, in particular, its practical utility. Section 101 specifies that statutory subject matter must also satisfy the other "conditions and requirements" of Title 35, including novelty, nonobviousness, and adequacy of disclosure and notice. *See In re Warmerdam*, 33 F.3d 1354, 1359, 31 USPQ2d 1754, 1757-58 (Fed. Cir. 1994). For purpose of our analysis, as noted above, claim 1 is directed to a machine programmed with the Hub and Spoke software and admittedly produces a "useful, concrete, and tangible result." *Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557. This renders it statutory subject matter, even if the useful result is expressed in numbers, such as price, profit, percentage, cost, or loss.

Thus, as articulated above, the test for determining whether subject matter is patentable under 35 U.S.C. § 101 involves deciding if the subject matter produces a "useful, concrete, and tangible result."

A discussion of the procedural considerations regarding a rejection based upon lack of utility (i.e., 35 U.S.C. § 101) is found in M.P.E.P. § 2107.02. Specifically, M.P.E.P. § 2107.02(I) states that:

regardless of the category of invention that is claimed (e.g., product or process), an applicant need only make one credible assertion of specific utility for the claimed invention to satisfy 35 U.S.C. 101 and 35 U.S.C. 112

In paragraph [0009] of Applicants' disclosure, it is stated that in the invention as claimed, user and course-related data in an LMS is translated to a format consistent with an LMS target database. The Applicant, therefore, has asserted a credible utility. As noted in

M.P.E.P. § 2107.02(III)(A), the Court of Customs and Patent Appeals in *In re Langer* stated the following:

As a matter of Patent Office practice, a specification which contains a disclosure of utility which corresponds in scope to the subject matter sought to be patented must be taken as sufficient to satisfy the utility requirement of § 101 for the entire claimed subject matter unless there is a reason for one skilled in the art to question the objective truth of the statement of utility or its scope. (emphasis in original)

Since a credible utility is contained in Applicants' specification, the utility requirement of 35 U.S.C. § 101 (i.e., whether the invention produces a useful, concrete, and tangible result) has been met. Therefore, Applicants respectfully solicit withdrawal of the imposed rejection of claims 1-12 under 35 U.S.C. § 101.

V. Rejections Under 35 U.S.C. § 112, Second Paragraph

The Examiner is mistaken as to the nature of the Applicants' invention and the Applicants disagree with the Examiner's assessment that a critical step of the claims are "missing". As noted in paragraph [0010] of the Applicants' specification, the course structure and progress data of the source data is transferred to the new LMS by re-loading the content on the LMS and linking that content with the previous course and progress data. Claims 1, 9 and 17 reflect this aspect of the invention by performing the "matching" only if a linkage already exists within an existing directory. Therefore, Applicants respectfully solicit withdrawal of the imposed rejections of claims 1 through 24 under 35 U.S.C. § 112, Second Paragraph.

VI. Rejections Under 35 U.S.C. § 103(a)

A. Characterization of the Cited Art

1. Martin

Martin relates to an Enterprise Data Movement (EDM) system and method for performing bulk data move operations and changed data propagation operations in an enterprise computing system with improved efficiency. Martin claims to provide synergy of operations between a bulk data move operation and a changed data propagation, wherein the load process of a bulk data move operation and the apply process of a changed data propagation operation operate to communicate with each other to ensure proper operation and also to ensure that each of the bulk move and propagation operations do not interfere with each other. Thus, according to Martin, an improved and automated procedure is provided for performing bulk move and changed data propagation operations which reduces the amount of time required by database administrators to monitor and/or perform tasks. Significantly, Martin lacks even a single mentioning of a learning model or LMS.

2. Prompt

Prompt teaches a hierarchical/relational translation system for enabling information from unrelated heterogeneous relational computing systems to be accessed, navigated, searched, browsed, and shared over a hierarchical computing system. In one embodiment of Prompt, the hierarchical/relational translation system includes a virtual directory server for capturing information in the nature of relational database schema and metadata. The captured schema and metadata are then translated into virtual directories that are universally compatible with standard communication protocols used with

hierarchical computing systems. A virtual directory of information organizes an index of data records and a standard addressing schema is provided to enable customizable access to relevant views of relational computing systems. Significantly, Prompt lacks even a single mentioning of a learning model or LMS.

3. Whitehurst

Whitehurst discloses a learning method and system that assess a learner's understanding of the subject matter and the learner's preferred learning style by presenting and reviewing the information in various types of teaching strategies and then selecting the teaching strategies in which the student learns best. In Whitehurst, as the student responds to questions presented during the course, a learning bias model is developed for the learner based on which teaching styles provide the best level of comprehension for the learner and then presents concepts from the course within those learning strategies most suitable to the student. Significantly, Whitehurst does not address the conversion of learning data.

B. Traversal of the Rejections on the Art

Applicant's amended independent claims require the conversion of user and course information from a source database in an e-learning model to a target database in a learning management system (LMS).

Exemplary claim 1 recites as follows:

1. A method of transforming user and course information from a source database in an e-learning model to a target database in a learning management system, the method comprising:

converting the user and course information to a format compatible with the target database, the converted user and course information containing object identification information;

matching object identifiers with corresponding object identification information contained in the converted user and course information if there is an existing directory containing object identifiers related to the object identification information contained in the converted user and course information; and

loading the converted user and course information into the target database.

Obviously, neither Martin, nor Prompt, nor any combination thereof can teach each and every limitation recited in claims 1, 9 and 17 as the word "learning" is wholly absent from Martin and Prompt and neither reference even mentions an LMS or an e-learning model. By comparison, though Whitehurst does relate to an LMS, nowhere in Whitehurst is there a teaching of a conversion of user and course information from a source database in an e-learning model to a target database in an LMS. Thus, it is impossible for any combination of Martin, Prompt and Whitehurst to render any of claims 1 through 24 obvious under 35 U.S.C. § 103(a).

VII. Conclusion

The Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. §§ 101, 112, second paragraph and 103(a) owing to the amended and cancelled claims and the foregoing remarks. The Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: April 19, 2007

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